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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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THE PEOPLE,

Plaintiff and Respondent,

v.

PETER MARSHALL AVALOS,

Defendant and Appellant.

C081375

(Super. Ct. No. 15F01423)

After the trial court denied his motion to suppress evidence, defendant Peter Marshall Avalos pled no contest to being a felon in possession of a firearm. On appeal, defendant contends the trial court erred in denying his motion to suppress because the police had no reasonable cause to stop the vehicle in which he was a passenger. We disagree and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Defendant filed a motion to dismiss pursuant to Penal Code section 995, with the preliminary examination serving as the factual basis, and a motion to suppress evidence

pursuant to Penal Code section 1538.5. The trial court denied the motion to dismiss. The following day, the trial court held a Penal Code section 1538.5 hearing. The facts from the suppression hearing include the following:

On March 4, 2015, Galt Police Officer Wesley Pittman was patrolling on the outskirts of the City of Galt. Officer Pittman saw a Honda driven by Angela Escobar going northbound on Orr Road and approaching the intersection with New Hope Road. Orr Road is a two-lane country roadway with one lane for each direction of traffic. At this intersection, however, the northbound lane of Orr Road splits into two lanes, with one turn lane going eastbound onto New Hope Road. Officer Pittman was traveling roughly 50 feet behind Escobar, and there were no other vehicles in the area. Both cars were traveling at approximately 30 to 35 miles per hour. At the intersection, Escobar made a right turn using the turn lane. Officer Pittman noticed Escobar began signaling 50 feet before the turn. He stopped her because she failed to signal 100 feet before making a turn.

Defendant was a passenger in the vehicle driven by Escobar. In a subsequent consent search, Officer Pittman found two large bags of methamphetamine, a plastic bag containing methamphetamine residue, a nickel-sized piece of methamphetamine, a .22-caliber revolver, .22-caliber ammunition, a cup with methamphetamine chunks, and an ejection rod. After being taken into custody, defendant stated that the gun belonged to Escobar. He also stated that his prints were probably on the gun because he tried to hide it during the stop. Defendant was charged with possession of methamphetamine for purpose of sale, being a felon in possession of a firearm, and being a felon in possession of ammunition.

The trial court found there was reasonable suspicion for Officer Pittman to believe a crime had been committed and denied defendant's motion to suppress. Specifically, the court found Escobar's failure to signal 100 feet before the turn might have affected

Officer Pittman in violation of Vehicle Code<sup>1</sup> sections 22107 and 22108 because he was about 50 feet behind Escobar. After the motion was denied, defendant pled no contest to the firearm possession charge. The trial court sentenced him to 32 months in prison.

### DISCUSSION

Defendant contends the trial court erred in denying his motion to suppress because Officer Pittman had no reasonable grounds to stop Escobar when she signaled 50 feet before making a turn. We disagree.

In reviewing a ruling on a motion to suppress, we defer to the trial court's factual findings, express or implied, when supported by substantial evidence, but we exercise our independent judgment in determining whether, on the facts so found, the search or seizure was lawful. (*People v. Redd* (2010) 48 Cal.4th 691, 719.) The Fourth Amendment protects against unreasonable searches and seizures. (U.S. Const., 4th Amend.; *Terry v. Ohio* (1968) 392 U.S. 1, 20 [20 L.Ed.2d 889, 905].) The Fourth Amendment's protection "dictates that traffic stops must be supported by articulable facts giving rise to a reasonable suspicion that the driver or a passenger has violated the Vehicle Code or some other law." (*People v. Durazo* (2004) 124 Cal.App.4th 728, 731.) Reasonable suspicion requires that "the detaining officer can point to specific articulable facts that, considered in light of the totality of the circumstances, provide some objective manifestation that the person detained may be involved in criminal activity." (*People v. Souza* (1994) 9 Cal.4th 224, 231.)

Section 22108 provides, "[a]ny signal of intention to turn right or left shall be given continuously during the last 100 feet traveled by the vehicle before turning." Section 22107 provides, "[n]o person shall turn a vehicle from a direct course or move right or left upon a roadway until such movement can be made with reasonable safety and

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<sup>1</sup> All further section references are to the Vehicle Code.

then only after the giving of an appropriate signal in the manner provided in this chapter in the event any other vehicle may be affected by the movement.” In *People v. Carmona* (2011) 195 Cal.App.4th 1385 at page 1392, Division Three of the Court of Appeal, Fourth Appellate District held that section 22108 must be read together with section 22107. Read together, the two statutes require a motorist to continuously signal during the last 100 feet traveled before turning only if other motorists may be affected by the movement. (*Carmona*, at p. 1394; see also *People v. Durant* (2012) 205 Cal.App.4th 57, 63.) A finding that another vehicle “ ‘ “may be affected by the movement” ’ ” is a factual finding reviewed for substantial evidence. (*People v. Logsdon* (2008) 164 Cal.App.4th 741, 745 [concluding that appellate court had to defer to finding of trial court as either “a discretionary finding or a finding of fact”].)

Defendant argues that the patrol car could not have been affected by Escobar’s turn. Defendant explains that because the patrol officer had to drive on the right side of the roadway, not follow too closely, and could not cross a double yellow line to pass Escobar’s vehicle, “it made no difference whether the driver of that vehicle intended to take the split or continue straight.” Defendant, however, does not consider various ways in which Escobar’s driving might have affected Officer Pittman, who was driving behind him, notwithstanding the limitations defendant mentions. (See *People v. Miranda* (1993) 17 Cal.App.4th 917, 930 [“the primary benefit of the signal requirement is for the vehicles to the rear of the signaling vehicle”].)

For example, Officer Pittman might have wanted to proceed straight at a greater rate of speed and might have wanted to accelerate as soon as he could safely do so, which might have been before Escobar actually signaled that she intended to use the turn lane. Another possibility is Officer Pittman might have wanted to follow Escobar, in which case her right turn definitely would have affected him as he would have wanted to go the way she went. Either way, the turn had a potential to affect Officer Pittman in his patrol car. The motion to suppress was properly denied.

DISPOSITION

The judgment is affirmed.

/s/  
Robie, Acting P. J.

We concur:

/s/  
Mauro, J.

/s/  
Hoch, J.